

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1758 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

BHARATKUMAR JASWANTLAL SHAH

Versus

GUJARAT STATE

Appearance:

1. Civil Revision Application No. 1758 of 1997
MR JC SHETH for Petitioner No. 1
MR KL PANDYA, ASST. GOVT. PLEADER for Respondent No. 1
MR VD PARGHI for Respondent No. 2-21
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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/09/2004

ORAL JUDGEMENT

1. The applicant is the original plaintiff of

Special Civil Suit No. 25 of 1989 pending before Civil Judge, Senior Division, Godhra. The said suit is filed for recovery of certain amount. During the pendency of the said suit, the plaintiff submitted an application under Order 26 Rule 10.A of the Civil Procedure Code for sending certain documents at Exh. 189 and 151 to hand writing expert for the purpose of determining the signature of respondent No.4. It is the case of the plaintiff that the defendant No. 4 had executed the writing, which, according to the plaintiff, is a promissory note at Exh. 189, and had agreed to pay Rs.4,59,701/- to the plaintiff. It seems that the suit is filed on the basis of the aforesaid documents at Exh. 189.

2. At the time of recording evidence, the plaintiff relied upon the said documents. However, defendant No. 4 denied the signature and denied execution of such document. At that stage the plaintiff requested the Court to send the said document to the hand writing expert. The trial Court rejected the said application on the ground that the stage of sending the documents has passed as the plaintiff has not applied for securing the help of scientific investigation before the commencement of recording of evidence. The learned trial Judge has accordingly rejected the said request and has not taken the document on record.

3. Mr. Pandya, learned Assistant Government Pleader appearing in the matter vehemently submitted that the impugned order is passed at an inter locutory stage, and Revision at this stage is not maintainable.

4. The impugned order is passed at an inter locutory stage in the proceedings. Therefore, in view of the amendment in section 115 of the Civil Procedure Code, Revision Application at this stage is not maintainable, as it cannot be said that by the impugned order, the suit or proceedings stand finally terminated. In that view of the matter, the Revision Application is dismissed as not maintainable. Rule is discharged. No order as to costs.

5. It is, however, clarified that if an appeal is preferred after final disposal of the suit proceedings, it will be open for the plaintiff to take up the point raised in this Revision in such appeal.

